

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 367

FINAL READING

Introduced by Janssen, 15; Cornett, 45; Dierks, 40; Dubas, 34;
Howard, 9; Preister, 5; Fischer, 43; Langemeier, 23

Read first time January 12, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2101.02 and 77-3806, Reissue Revised Statutes of
3 Nebraska, and sections 77-908, 77-2101.01, 77-2101.03,
4 77-2701, 77-2701.04, 77-2701.10, 77-2701.16, 77-2701.34,
5 77-2703, 77-2703.01, 77-2704.33, 77-2704.55, 77-2715.02,
6 77-2715.07, 77-2716.01, 77-2717, 77-2734.03, and
7 77-27,235, Revised Statutes Cumulative Supplement,
8 2006; to adopt the Property Tax Credit Act; to change
9 and eliminate provisions relating to estate taxes,
10 generation-skipping transfer taxes, sales and use taxes,
11 and income taxes; to harmonize provisions; to provide
12 operative dates; to repeal the original sections; to

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1 outright repeal sections 77-2709.01 and 77-27,222,
2 Reissue Revised Statutes of Nebraska, and section
3 77-2701.45, Revised Statutes Cumulative Supplement, 2006;
4 and to declare an emergency.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 4 of this act shall be known and
2 may be cited as the Property Tax Credit Act.

3 Sec. 2. The purpose of the Property Tax Credit Act is to
4 provide property tax relief for property taxes levied against real
5 property. The property tax relief will be made to owners of real
6 property in the form of a property tax credit.

7 Sec. 3. The Property Tax Credit Cash Fund is created. The
8 fund shall only be used pursuant to the Property Tax Credit Act.
9 Any money in the fund available for investment shall be invested
10 by the state investment officer pursuant to the Nebraska Capital
11 Expansion Act and the Nebraska State Funds Investment Act.

12 Sec. 4. (1) For tax year 2007, the amount of relief
13 granted under the Property Tax Credit Act shall be one hundred five
14 million dollars. For tax year 2008, the amount of relief granted
15 under the act shall be one hundred fifteen million dollars. It is
16 the intent of the Legislature to fund the Property Tax Credit Act
17 for tax years after tax year 2008 using available revenue. The
18 relief shall be in the form of a property tax credit which appears
19 on the property tax statement.

20 (2) To determine the amount of the property tax credit,
21 the county treasurer shall multiply the amount disbursed to the
22 county under subsection (4) of this section by the ratio of the
23 real property valuation of the parcel to the total real property
24 valuation in the county. The amount determined shall be the
25 property tax credit for the property.

1 (3) If the real property owner qualifies for a homestead
2 exemption under sections 77-3501 to 77-3529, the owner shall also
3 be qualified for the relief provided in the act to the extent of
4 any remaining liability after calculation of the relief provided by
5 the homestead exemption. If the credit results in a property tax
6 liability on the homestead that is less than zero, the amount of
7 the credit which cannot be used by the taxpayer shall be returned
8 to the State Treasurer by July 1 of the year the amount disbursed
9 to the county was disbursed. The State Treasurer shall immediately
10 credit any funds returned under this section to the Property Tax
11 Credit Cash Fund.

12 (4) The amount disbursed to each county shall be equal to
13 the amount available for disbursement determined under subsection
14 (1) of this section multiplied by the ratio of the real property
15 valuation in the county to the real property valuation in the
16 state. By September 15, the Property Tax Administrator shall
17 determine the amount to be disbursed under this subsection to each
18 county and certify such amounts to the State Treasurer and to each
19 county. The disbursements to the counties shall occur in two equal
20 payments, the first on or before January 31 and the second on or
21 before April 1. After retaining one percent of the receipts for
22 costs, the county treasurer shall allocate the remaining receipts
23 to each taxing unit levying taxes on taxable property in the
24 tax district in which the real property is located in the same
25 proportion that the levy of such taxing unit bears to the total

1 levy on taxable property of all the taxing units in the tax
2 district in which the real property is located.

3 (5) The State Treasurer shall transfer from the General
4 Fund to the Property Tax Credit Cash Fund one hundred five million
5 dollars by August 1, 2007, and one hundred fifteen million dollars
6 by August 1, 2008.

7 (6) The Legislature shall have the power to transfer
8 funds from the Property Tax Credit Cash Fund to the General Fund.

9 Sec. 5. Section 77-908, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 77-908 Every insurance company organized under the stock,
12 mutual, assessment, or reciprocal plan, except fraternal benefit
13 societies, which is transacting business in this state shall, on
14 or before March 1 of each year, pay a tax to the director of one
15 percent of the gross amount of direct writing premiums received by
16 it during the preceding calendar year for business done in this
17 state, except that (1) for group sickness and accident insurance
18 the rate of such tax shall be five-tenths of one percent, (2) for
19 property and casualty insurance, excluding individual sickness and
20 accident insurance, the rate of such tax shall be one percent, and
21 (3) for capitation payments made in accordance with the Medical
22 Assistance Act, the rate of tax shall be five percent. The taxable
23 premiums shall include premiums paid on the lives of persons
24 residing in this state and premiums paid for risks located in
25 this state whether the insurance was written in this state or not,

1 including that portion of a group premium paid which represents the
2 premium for insurance on Nebraska residents or risks located in
3 Nebraska included within the group when the number of lives in the
4 group exceeds five hundred. The tax shall also apply to premiums
5 received by domestic companies for insurance written on individuals
6 residing outside this state or risks located outside this state if
7 no comparable tax is paid by the direct writing domestic company
8 to any other appropriate taxing authority. Companies whose scheme
9 of operation contemplates the return of a portion of premiums
10 to policyholders, without such policyholders being claimants under
11 the terms of their policies, may deduct such return premiums
12 or dividends from their gross premiums for the purpose of tax
13 calculations. Any such insurance company shall receive a credit on
14 the tax imposed as provided in the Community Development Assistance
15 Act, and section ~~77-27,222.~~

16 Sec. 6. Section 77-2101.01, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 77-2101.01 (1) In addition to the inheritance taxes
19 imposed by the laws of the State of Nebraska, there is levied and
20 imposed an estate or excise tax for all decedents dying before
21 January 1, 2007, upon the transfer of the estate of every resident
22 decedent and upon the value of any interest in Nebraska real
23 estate and tangible personal property situated in Nebraska of a
24 nonresident decedent.

25 (2) For decedents dying before January 1, 2003, the

1 amount of such tax shall be the maximum state tax credit allowance
2 upon the tax imposed by Chapter 11 of the Internal Revenue Code
3 reduced by the lesser of (a) the aggregate amount of all estate,
4 inheritance, legacy, or succession taxes paid to any state or
5 territory, the District of Columbia, or any possession of the
6 United States in respect of any property subject to such tax
7 or (b) the sum of (i) the amount determined by multiplying the
8 maximum state tax credit allowance with respect to the taxable
9 transfer by the percentage which the gross value of the transferred
10 property not situated in Nebraska bears to the gross value of the
11 transferred property and (ii) the amount of Nebraska inheritance
12 taxes paid.

13 (3) For all decedents dying on or after January 1, 2003,
14 and before January 1, 2007, (a) for the estate of every resident
15 decedent, the amount of such tax shall be the amount calculated
16 in section 77-2101.03 reduced by the percentage which the gross
17 value of the transferred property not situated in Nebraska bears
18 to the gross value of the transferred property minus the amount of
19 Nebraska inheritance taxes paid, and (b) for the estate of every
20 nonresident decedent, the amount of such tax shall be the amount
21 calculated in section 77-2101.03 multiplied by the percentage which
22 the gross value of the transferred property situated in Nebraska
23 bears to the gross value of the transferred property minus the
24 amount of Nebraska inheritance taxes paid.

25 Sec. 7. Section 77-2101.02, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 77-2101.02 ~~There~~ For all generation-skipping transfers
3 occurring before January 1, 2007, there is hereby imposed a
4 generation-skipping transfer tax upon the generation-skipping
5 transfer or distribution of property of every resident of this
6 state and upon the generation-skipping transfer of Nebraska real
7 estate and tangible personal property situated in Nebraska by a
8 nonresident. The amount of the generation-skipping transfer tax
9 shall be the amount calculated in section 77-2101.03 reduced by the
10 lesser of (1) the aggregate amount of all transfer taxes paid to
11 any state or territory, the District of Columbia, or any possession
12 of the United States in respect of any property subject to the
13 generation-skipping transfer tax or (2) the amount determined
14 by multiplying the amount calculated in section 77-2101.03 with
15 respect to the taxable transfer by the percentage which the gross
16 value of the transferred property not situated in Nebraska bears to
17 the gross value of the transferred property.

18 Sec. 8. Section 77-2101.03, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 77-2101.03 (1) For decedents dying on or after January
21 1, 2003, and before July 1, 2003, the tax on the Nebraska taxable
22 estate shall be the greater of the maximum state tax credit
23 allowance upon the tax imposed under Chapter 11 of the Internal
24 Revenue Code or the amount provided in the following table:

25 Nebraska taxable estate

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1	At least	But less	Tax =	+	%	Of Excess
2		than				Over
3	\$0	\$40,000	\$0		0	\$0
4	40,000	90,000	0		.8	40,000
5	90,000	140,000	400		1.6	90,000
6	140,000	240,000	1,200		2.4	140,000
7	240,000	440,000	3,600		3.2	240,000
8	440,000	640,000	10,000		4	440,000
9	640,000	840,000	18,000		4.8	640,000
10	840,000	1,040,000	27,600		5.6	840,000
11	1,040,000	1,540,000	38,800		6.4	1,040,000
12	1,540,000	2,040,000	70,800		7.2	1,540,000
13	2,040,000	2,540,000	106,800		8	2,040,000
14	2,540,000	3,040,000	146,800		8.8	2,540,000
15	3,040,000	3,540,000	190,800		9.6	3,040,000
16	3,540,000	4,040,000	238,800		10.4	3,540,000
17	4,040,000	5,040,000	290,800		11.2	4,040,000
18	5,040,000	6,040,000	402,800		12	5,040,000
19	6,040,000	7,040,000	522,800		12.8	6,040,000
20	7,040,000	8,040,000	650,800		13.6	7,040,000
21	8,040,000	9,040,000	786,800		14.4	8,040,000
22	9,040,000	10,040,000	930,800		15.2	9,040,000
23	10,040,000		1,082,800		16	10,040,000

24 (2) For decedents dying on or after July 1, 2003, and
25 before January 1, 2007, the tax on the Nebraska taxable estate

1 shall be the greater of the maximum state tax credit allowance upon
 2 the tax imposed under Chapter 11 of the Internal Revenue Code or
 3 the amount provided in the following table:

4 Nebraska taxable estate

5	At least	But less	Tax =	+	%	Of Excess
6		than				Over
7	\$0	\$100,000	\$0		5.6	\$0
8	100,000	500,000	5,600		6.4	100,000
9	500,000	1,000,000	31,200		7.2	500,000
10	1,000,000	1,500,000	67,200		8	1,000,000
11	1,500,000	2,000,000	107,200		8.8	1,500,000
12	2,000,000	2,500,000	151,200		9.6	2,000,000
13	2,500,000	3,000,000	199,200		10.4	2,500,000
14	3,000,000	3,500,000	251,200		11.2	3,000,000
15	3,500,000	4,000,000	307,200		12	3,500,000
16	4,000,000	5,000,000	367,200		12.8	4,000,000
17	5,000,000	6,000,000	495,200		13.6	5,000,000
18	6,000,000	7,000,000	631,200		14.4	6,000,000
19	7,000,000	8,000,000	775,200		15.2	7,000,000
20	8,000,000	9,000,000	927,200		16	8,000,000
21	9,000,000		1,087,200		16.8	9,000,000

22 (3) Taxable generation-skipping transfers shall be taxed
 23 at a rate of sixteen percent of the Nebraska taxable transfer.

24 Sec. 9. Section 77-2701, Revised Statutes Cumulative
 25 Supplement, 2006, is amended to read:

1 77-2701 Sections 77-2701 to 77-27,135.01, ~~77-27,222,~~ and
2 77-27,228 to 77-27,235 and section 11 of this act shall be known
3 and may be cited as the Nebraska Revenue Act of 1967.

4 Sec. 10. Section 77-2701.04, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 77-2701.04 For purposes of sections 77-2701.04 to 77-2713
7 and section 11 of this act, unless the context otherwise requires,
8 the definitions found in sections 77-2701.05 to 77-2701.47 shall be
9 used.

10 Sec. 11. Sales and use tax shall not be imposed on
11 the gross receipts from the sale, lease, or rental of personal
12 property for use in a C-BED project or community-based energy
13 development project. This exemption shall be conditioned upon
14 filing requirements for the exemption as imposed by the Tax
15 Commissioner. The requirements imposed by the Tax Commissioner
16 shall be related to ensuring that the property purchased qualifies
17 for the exemption. For purposes of this section:

18 (1) C-BED project or community-based energy development
19 project means a new wind energy project that:

20 (a) Has an ownership structure as follows:

21 (i) For a C-BED project that consists of more than two
22 turbines, is owned by qualified owners with no single qualified
23 owner owning more than fifteen percent of the project and with at
24 least thirty-three percent of the power purchase agreement payments
25 flowing to the qualified owner or owners or local community; or

1 (ii) For a C-BED project that consists of one or two
2 turbines, is owned by one or more qualified owners with at least
3 thirty-three percent of the power purchase agreement payments
4 flowing to a qualified owner or local community; and

5 (b) Has a resolution of support adopted:

6 (i) By the county board of each county in which the C-BED
7 project is to be located; or

8 (ii) By the tribal council for a C-BED project located
9 within the boundaries of an Indian reservation;

10 (2) New wind energy project includes any materials used
11 to manufacture, install, construct, repair, or replace a device,
12 such as a wind charger, windmill, or wind turbine, that converts
13 wind energy to a form of usable energy; and

14 (3) Qualified owner means:

15 (a) A Nebraska resident;

16 (b) A limited liability company that is organized under
17 the Limited Liability Company Act and that is entirely made up of
18 members who are Nebraska residents;

19 (c) A Nebraska nonprofit corporation organized under the
20 Nebraska Nonprofit Corporation Act;

21 (d) An electric supplier as defined in section
22 70-1001.01, except that ownership in a single C-BED project is
23 limited to no more than:

24 (i) Fifteen percent by a single electric supplier; and

25 (ii) A combined total of twenty-five percent ownership by

1 multiple electric suppliers; or

2 (e) A tribal council.

3 Sec. 12. Section 77-2701.10, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 77-2701.10 Contractor or repairperson means any person
6 who performs any repair services upon property annexed to, or
7 who annexes building materials to, real estate, including leased
8 property, and who, as a necessary and incidental part of performing
9 such services, annexes building materials to the real estate being
10 so repaired or annexed or arranges for such annexation. Contractor
11 or repairperson does not include any person who incorporates
12 live plants into real estate except when such incorporation is
13 incidental to the transfer of an improvement upon real estate or
14 the real estate. The contractor or repairperson not electing to
15 be taxed as a retailer is considered to be the consumer of such
16 building materials furnished by him or her and annexed to the real
17 estate being so repaired or annexed for all the purposes of the
18 Nebraska Revenue Act of 1967. The contractor or repairperson:

19 (1) Shall be permitted to make an election that he or she
20 will be taxed as a retailer in which case he or she shall not be
21 considered the final consumer of building materials annexed to real
22 estate;

23 (2) Shall be permitted to make an election that he or she
24 will be taxed as the consumer of building materials annexed to real
25 estate, will pay the sales tax or remit the use tax at the time of

1 purchase, and will maintain a tax-paid inventory; or

2 (3) Shall be permitted to make an election that he or
3 she will be taxed as the consumer of building materials annexed
4 to real estate and may issue a resale certificate when purchasing
5 building materials that will be annexed to real estate. Such person
6 shall then remit the appropriate use tax on any building materials
7 when withdrawn from inventory for the purpose of being annexed to
8 real estate at the rate in effect at the time and place of the
9 withdrawal from inventory.

10 ~~The contractor shall collect and remit the tax on his or~~
11 ~~her gross receipts for labor in performing construction services as~~
12 ~~payments are received except as provided in section 77-2704.55.~~

13 The provisions of this section shall not excuse any
14 person from the obligation to collect sales tax on retail sales of
15 property not annexed to real estate or from the obligation to pay
16 the sales tax or remit the use tax on tools, services, and other
17 materials consumed that are not annexed to real estate.

18 The Department of Revenue shall not prescribe any
19 requirements of Nebraska sales revenue, percentage or otherwise,
20 restricting any person's election. Any change in an election shall
21 require prior approval by the Tax Commissioner.

22 Any change in the election shall, if filed on or prior to
23 the fifteenth of the month, become effective at the beginning of
24 the following month or, if filed after the fifteenth of the month,
25 become effective on the first day of the next succeeding month. Any

1 person who changes his or her election and becomes a contractor
2 or repairperson shall pay the tax on all building materials in
3 inventory which may be annexed to real estate at the time of making
4 the change in election except when such contractor or repairperson
5 elects to purchase inventory with a resale certificate. Any person
6 who changes his or her election and becomes a retailer shall not be
7 entitled to a refund but shall receive a credit for the tax paid on
8 building materials in inventory at the time the building materials
9 are sold. The credit shall be applied against the tax collected on
10 sales of such building materials.

11 Any contractor or repairperson who has not completed and
12 filed an election as required in this section within three months
13 after beginning to operate as a contractor or repairperson shall be
14 considered a retailer for all periods until an election has been
15 made.

16 Sec. 13. Section 77-2701.16, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 77-2701.16 (1) Gross receipts shall mean the total amount
19 of the sale or lease or rental price, as the case may be, of
20 the retail sales of retailers valued in money whether received in
21 money or otherwise, without any deduction on account of any of the
22 following:

23 (a) The cost of property sold. In accordance with rules
24 and regulations adopted and promulgated by the Tax Commissioner, a
25 deduction may be taken if the retailer has purchased property for

1 some purpose other than resale, has reimbursed his or her vendor
2 for tax which the vendor is required to pay to the state or has
3 paid the use tax with respect to the property, and has resold
4 the property prior to making any use of the property other than
5 retention, demonstration, or display while holding it for sale in
6 the regular course of business. If such a deduction is taken by the
7 retailer, no refund or credit will be allowed to his or her vendor
8 with respect to the sale of the property;

9 (b) The cost of the materials used, labor or service
10 costs, interest paid, losses, or any other expense;

11 (c) The cost of transportation of the property;

12 (d) The amount of any excise or property tax levied
13 against the property except as otherwise provided in the Nebraska
14 Revenue Act of 1967; or

15 (e) The amount charged for warranties, guarantees, or
16 maintenance agreements.

17 (2) Gross receipts of every person engaged as a public
18 utility specified in this subsection or as a community antenna
19 television service operator or any person involved in connecting
20 and installing services defined in subdivision (2)(a), (b), or (d)
21 of this section shall mean:

22 (a) In the furnishing of telephone communication service,
23 other than mobile telecommunications service as described in
24 section 77-2706.02, the gross income received from furnishing local
25 exchange telephone service and intrastate message toll telephone

1 service. In the furnishing of mobile telecommunications service
2 as described in section 77-2706.02, the gross income received
3 from furnishing mobile telecommunications service that originates
4 and terminates in the same state to a customer with a place
5 of primary use in Nebraska. Gross receipts shall not mean (i)
6 the gross income, including division of revenue, settlements, or
7 carrier access charges received on or after January 1, 1984, from
8 the sale of a telephone communication service to a communication
9 service provider for purposes of furnishing telephone communication
10 service or (ii) the gross income attributable to services rendered
11 using a prepaid telephone calling arrangement. For purposes of
12 this subdivision, a prepaid telephone calling arrangement shall
13 mean the right to exclusively purchase telecommunications service
14 that is paid for in advance that enables the origination of calls
15 using an access number or authorization code, whether manually or
16 electronically dialed;

17 (b) In the furnishing of telegraph service, the gross
18 income received from the furnishing of intrastate telegraph
19 services;

20 (c) In the furnishing of gas, electricity, sewer, and
21 water service except water used for irrigation of agricultural
22 lands and manufacturing purposes, the gross income received from
23 the furnishing of such services upon billings or statements
24 rendered to consumers for such utility services; and

25 (d) In the furnishing of community antenna television

1 service, the gross income received from the furnishing of such
2 community antenna television service as regulated under sections
3 18-2201 to 18-2205 or 23-383 to 23-388.

4 Gross receipts shall also mean gross income received from
5 the provision, installation, construction, servicing, or removal of
6 property used in conjunction with the furnishing, installing, or
7 connecting of any public utility services specified in subdivision
8 (2)(a) or (b) of this section or community antenna television
9 service specified in subdivision (2)(d) of this section. Gross
10 receipts shall not mean gross income received from telephone
11 directory advertising.

12 (3) Gross receipts of every person engaged in selling,
13 leasing, or otherwise providing intellectual or entertainment
14 property shall mean:

15 (a) In the furnishing of computer software, the gross
16 income received, including the charges for coding, punching, or
17 otherwise producing computer software and the charges for the
18 tapes, disks, punched cards, or other properties furnished by the
19 seller; and

20 (b) In the furnishing of videotapes, movie film,
21 satellite programming, satellite programming service, and satellite
22 television signal descrambling or decoding devices, the gross
23 income received from the license, franchise, or other method
24 establishing the charge except the gross income received from
25 videotape and film rentals, satellite programming, and satellite

1 programming service when the sales tax or the admission tax is
2 charged under the Nebraska Revenue Act of 1967 and except as
3 provided in section 77-2704.39.

4 (4) Gross receipts for providing a service shall mean:

5 (a) The gross income received for building cleaning and
6 maintenance, pest control, and security;

7 (b) The gross income received for motor vehicle washing,
8 waxing, towing, and painting;

9 (c) The gross income received for computer software
10 training;

11 (d) The gross income received for installing and applying
12 tangible personal property if the sale of the property is subject
13 to tax;

14 (e) The gross income received for labor by a contractor
15 except as provided in section 77-2704.55;

16 (f) The gross income received for services of
17 recreational vehicle parks;

18 (g) The gross income received for labor for repair or
19 maintenance services performed with regard to tangible personal
20 property the sale of which would be subject to sales and use
21 taxes, excluding motor vehicles, except as otherwise provided in
22 subdivision (2)(f) of section 77-2702.13 or section 77-2704.26;

23 (h) The gross income received for animal specialty
24 services except (i) veterinary services and (ii) specialty services
25 performed on livestock as defined in section 54-183; and

1 (i) The gross income received for detective services.

2 (5) Gross receipts shall not include any of the
3 following:

4 (a) Cash discounts allowed and taken on sales;

5 (b) The amount of any rebate granted by a motor vehicle
6 or motorboat manufacturer or dealer at the time of sale of the
7 motor vehicle or motorboat, which rebate functions as a discount
8 from the sales price of the motor vehicle or motorboat;

9 (c) Sales price of property or services returned or
10 rejected by customers when the full sales price is refunded either
11 in cash or credit;

12 (d) The amount charged for finance charges, carrying
13 charges, service charges, or interest from credit extended on sales
14 of property or services under contracts providing for deferred
15 payments of the purchase price if such charges are not used as a
16 means of avoiding imposition of the tax upon the actual sales price
17 of the property or services;

18 (e) The value of property taken by a seller in trade as
19 all or a part of the consideration for a sale of property of any
20 kind or nature;

21 (f) The value of a motor vehicle or motorboat taken by
22 any person in trade as all or a part of the consideration for a
23 sale of another motor vehicle or motorboat;

24 (g) Receipts from conditional sale contracts, installment
25 sale contracts, rentals, and leases executed in writing prior to

1 June 1, 1967, and with delivery of the property prior to June
2 1, 1967, if such conditional sale contracts, installment sale
3 contracts, rentals, or leases are for a fixed price and are not
4 subject to negotiation or alteration; or

5 (h) Except as provided in subsection (2) of this section,
6 until October 1, 2002, the amount charged for labor or services
7 rendered in installing or applying the property sold if such amount
8 is separately stated and such separate statement is not used as a
9 means of avoiding imposition of the tax upon the actual sales price
10 of the property.

11 (6) Subsections (1) through (6) of this section terminate
12 on January 1, 2004.

13 (7) Gross receipts means the total amount of the sale or
14 lease or rental price, as the case may be, of the retail sales of
15 retailers.

16 (8) Gross receipts of every person engaged as a public
17 utility specified in this subsection or as a community antenna
18 television service operator or any person involved in connecting
19 and installing services defined in subdivision (8)(a), (b), or (d)
20 of this section means:

21 (a)(i) In the furnishing of telephone communication
22 service, other than mobile telecommunications service as described
23 in section 77-2703.04, the gross income received from furnishing
24 local exchange telephone service and intrastate message toll
25 telephone service; and

1 (ii) In the furnishing of mobile telecommunications
2 service as described in section 77-2703.04, the gross income
3 received from furnishing mobile telecommunications service that
4 originates and terminates in the same state to a customer with a
5 place of primary use in Nebraska;

6 (b) In the furnishing of telegraph service, the gross
7 income received from the furnishing of intrastate telegraph
8 services;

9 (c) In the furnishing of gas, electricity, sewer, and
10 water service, the gross income received from the furnishing of
11 such services upon billings or statements rendered to consumers for
12 such utility services;

13 (d) In the furnishing of community antenna television
14 service, the gross income received from the furnishing of such
15 community antenna television service as regulated under sections
16 18-2201 to 18-2205 or 23-383 to 23-388; and

17 (e) The gross income received from the provision,
18 installation, construction, servicing, or removal of property used
19 in conjunction with the furnishing, installing, or connecting of
20 any public utility services specified in subdivision (8) (a) or (b)
21 of this section or community antenna television service specified
22 in subdivision (8) (d) of this section, ~~which shall be considered~~
23 ~~construction services beginning October 1, 2003. Except except when~~
24 acting as a subcontractor for a public utility, this subdivision
25 does not apply to the gross income received by a contractor

1 electing to be treated as a consumer of building materials under
2 subdivision (2) or (3) of section 77-2701.10 for any such services
3 performed on the customer's side of the utility demarcation point,
4 ~~prior to October 1, 2003.~~

5 (9) Gross receipts of every person engaged in selling,
6 leasing, or otherwise providing intellectual or entertainment
7 property means:

8 (a) In the furnishing of computer software, the gross
9 income received, including the charges for coding, punching, or
10 otherwise producing any computer software and the charges for the
11 tapes, disks, punched cards, or other properties furnished by the
12 seller; and

13 (b) In the furnishing of videotapes, movie film,
14 satellite programming, satellite programming service, and satellite
15 television signal descrambling or decoding devices, the gross
16 income received from the license, franchise, or other method
17 establishing the charge.

18 (10) Gross receipts for providing a service means:

19 (a) The gross income received for building cleaning and
20 maintenance, pest control, and security;

21 (b) The gross income received for motor vehicle washing,
22 waxing, towing, and painting;

23 (c) The gross income received for computer software
24 training;

25 (d) The gross income received for installing and applying

1 tangible personal property if the sale of the property is subject
2 to tax;

3 ~~(e) The gross receipts received for labor by a contractor~~
4 ~~electing to be treated as a consumer of building materials under~~
5 ~~subdivision (2) or (3) of section 77-2701.10 except as provided~~
6 ~~in section 77-2704.55. For purposes of this subdivision, the gross~~
7 ~~receipts received for labor shall be sixty percent of the sales~~
8 ~~price for building materials and construction services less an~~
9 ~~allowance for sales tax paid on building materials. The allowance~~
10 ~~for sales tax paid on building materials shall equal the sales tax~~
11 ~~rate in effect at the time payment is received at the location of~~
12 ~~the project times forty percent of the sales price for building~~
13 ~~materials and construction services;~~

14 ~~(f)~~ (e) The gross income received for services of
15 recreational vehicle parks;

16 ~~(g)~~ (f) The gross income received for labor for repair
17 or maintenance services performed with regard to tangible personal
18 property the sale of which would be subject to sales and use taxes,
19 excluding motor vehicles, except as otherwise provided in section
20 77-2704.26 or 77-2704.50;

21 ~~(h)~~ (g) The gross income received for animal specialty
22 services except (i) veterinary services and (ii) specialty services
23 performed on livestock as defined in section 54-183; and

24 ~~(i)~~ (h) The gross income received for detective services.

25 (11) Gross receipts includes the sale of admissions which

1 means the right or privilege to have access to or to use a place
2 or location. An admission includes a membership that allows access
3 to or use of a place or location, but which membership does not
4 include the right to hold office, vote, or change the policies of
5 the organization. When an admission to an activity or a membership
6 constituting an admission pursuant to this subsection is combined
7 with the solicitation of a contribution, the portion or the amount
8 charged representing the fair market price of the admission shall
9 be considered a retail sale subject to the tax imposed by section
10 77-2703. The organization conducting the activity shall determine
11 the amount properly attributable to the purchase of the privilege,
12 benefit, or other consideration in advance, and such amount shall
13 be clearly indicated on any ticket, receipt, or other evidence
14 issued in connection with the payment.

15 (12) Gross receipts includes the sale of live plants
16 incorporated into real estate except when such incorporation is
17 incidental to the transfer of an improvement upon real estate or
18 the real estate.

19 (13) Gross receipts includes the sale of any building
20 materials annexed to real estate ~~and any construction services~~ by a
21 person electing to be taxed as a retailer pursuant to subdivision
22 (1) of section 77-2701.10.

23 (14) Gross receipts includes the sale of prepaid
24 telephone calling arrangements and the recharge of prepaid
25 telephone calling arrangements. If the sale or recharge of a

1 prepaid telephone calling arrangement does not take place at
2 the vendor's place of business, the sale or recharge shall be
3 conclusively determined to take place at the customer's shipping
4 address or, if there is no item shipped, at the customer's
5 billing address. For purposes of this subsection, a prepaid
6 telephone calling arrangement means the right to exclusively
7 purchase telecommunications services that are paid for in advance
8 that enables the origination of calls using an access number or
9 authorization code, whether manually or electronically dialed.

10 (15) Gross receipts does not include:

11 (a) The amount of any rebate granted by a motor vehicle
12 or motorboat manufacturer or dealer at the time of sale of the
13 motor vehicle or motorboat, which rebate functions as a discount
14 from the sales price of the motor vehicle or motorboat; or

15 (b) The price of property or services returned or
16 rejected by customers when the full sales price is refunded
17 either in cash or credit.

18 (16) Subsections (7) through (15) of this section become
19 operative on January 1, 2004.

20 (17) The Tax Commissioner shall hold a hearing on rules
21 and regulations to carry out the changes made to this section by
22 Laws 2003, LB 759. It is the intent of the Legislature that the Tax
23 Commissioner adopt and promulgate rules and regulations to carry
24 out such changes.

25 Sec. 14. Section 77-2701.34, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 77-2701.34 Sale for resale means a sale of property or
3 provision of a service to any purchaser who is purchasing such
4 property or service for the purpose of reselling it in the normal
5 course of his or her business, either in the form or condition in
6 which it is purchased or as an attachment to or integral part of
7 other property or service. A sale for resale includes a sale of
8 building materials to a contractor or repairperson electing to be
9 taxed as a retailer under subdivision (1) of section 77-2701.10, a
10 sale of building materials to a contractor or repairperson being
11 taxed as the consumer of building materials and electing a tax-free
12 inventory under subdivision (3) of section 77-2701.10, or a sale
13 of property to a purchaser for the sole purpose of that purchaser
14 renting or leasing such property to another person, with rent or
15 lease payments set at a fair market value, or film rentals for
16 use in a place where an admission is charged that is subject to
17 tax under the Nebraska Revenue Act of 1967 but not if incidental
18 to the renting or leasing of real estate. A sale ~~for resale~~ also
19 ~~includes the sale by a contractor of construction services to~~
20 ~~another contractor.~~

21 Sec. 15. Section 77-2703, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 77-2703 (1) There is hereby imposed a tax at the rate
24 provided in section 77-2701.02 upon the gross receipts from all
25 sales of tangible personal property sold at retail in this state;

1 ~~the gross receipts of every person engaged as a public utility,~~
2 ~~as a community antenna television service operator or any person~~
3 ~~involved in the connecting and installing of the services defined~~
4 ~~in subdivision (2)(a), (b), or (d) of section 77-2701.16 until~~
5 ~~January 1, 2004, and the services defined in subdivision (8)(a),~~
6 ~~(b), (d), or (e) of section 77-2701.16, beginning on January 1,~~
7 ~~2004, or as a retailer of intellectual or entertainment properties~~
8 ~~referred to in subsection (3) of section 77-2701.16 until January~~
9 ~~1, 2004, and subsection (9) of section 77-2701.16; beginning on~~
10 ~~January 1, 2004, the gross receipts from the sale of admissions~~
11 ~~in this state; the gross receipts from the sale of warranties,~~
12 ~~guarantees, service agreements, or maintenance agreements when the~~
13 ~~items covered are subject to tax under this section; and the~~
14 ~~gross receipts from the provision of services defined in subsection~~
15 ~~(4) of section 77-2701.16 until January 1, 2004, and services~~
16 ~~defined in subsection (10) of section 77-2701.16, beginning on~~
17 ~~January 1, 2004. Except as provided in section 77-2701.03, when~~
18 ~~there is a sale, the tax shall be imposed at the rate in effect~~
19 ~~at the time the gross receipts are realized under the accounting~~
20 ~~basis used by the retailer to maintain his or her books and~~
21 ~~records, or for a contractor when the payment or payments are~~
22 ~~received for construction services. For purposes of this subsection~~
23 ~~until January 1, 2004, the provision of services shall be deemed~~
24 ~~to be in this state for services provided to real estate if the~~
25 ~~real estate is located in this state; for services provided to~~

1 ~~personal property or animals if the personal property or animal is~~
2 ~~located in this state and the service is rendered for use in this~~
3 ~~state, for detective services under subdivision (4)(i) of section~~
4 ~~77-2701.16, in the case of a customer who is an individual, if the~~
5 ~~individual is residing in this state, or in the case of a business~~
6 ~~customer, if the principal place of the business is located in this~~
7 ~~state, and for computer software training under subdivision (4)(c)~~
8 ~~of section 77-2701.16 if the training is performed at a location~~
9 ~~that is within this state for a customer located within this state.~~

10 (a) The tax imposed by this section shall be collected
11 by the retailer from the consumer. It shall constitute a part of
12 the purchase price and until collected shall be a debt from the
13 consumer to the retailer and shall be recoverable at law in the
14 same manner as other debts. The tax required to be collected by the
15 retailer from the consumer constitutes a debt owed by the retailer
16 to this state.

17 (b) It is unlawful for any retailer to advertise, hold
18 out, or state to the public or to any customer, directly or
19 indirectly, that the tax or part thereof will be assumed or
20 absorbed by the retailer, that it will not be added to the selling,
21 renting, or leasing price of the property sold, rented, or leased,
22 or that, if added, it or any part thereof will be refunded. The
23 provisions of this subdivision shall not apply to a public utility.

24 (c) The tax required to be collected by the retailer from
25 the purchaser, unless otherwise provided by statute or by rule and

1 regulation of the Tax Commissioner, shall be displayed separately
2 from the list price, the price advertised in the premises, the
3 marked price, or other price on the sales check or other proof of
4 sales, rentals, or leases.

5 (d) For the purpose of more efficiently securing the
6 payment, collection, and accounting for the sales tax and for the
7 convenience of the retailer in collecting the sales tax, it shall
8 be the duty of the Tax Commissioner to provide a schedule or
9 schedules of the amounts to be collected from the consumer or user
10 to effectuate the computation and collection of the tax imposed
11 by the Nebraska Revenue Act of 1967. Such schedule or schedules
12 shall provide that the tax shall be collected from the consumer
13 or user uniformly on sales according to brackets based on sales
14 prices of the item or items. Retailers may compute the tax due on
15 any transaction on an item or an invoice basis. The rounding rule
16 provided in section 77-3,117 applies.

17 (e) The use of tokens or stamps for the purpose of
18 collecting or enforcing the collection of the taxes imposed in the
19 Nebraska Revenue Act of 1967 or for any other purpose in connection
20 with such taxes is prohibited.

21 (f) For the purpose of the proper administration of the
22 provisions of the Nebraska Revenue Act of 1967 and to prevent
23 evasion of the retail sales tax, it shall be presumed that all
24 gross receipts are subject to the tax until the contrary is
25 established. The burden of proving that a sale of property is not

1 a sale at retail is upon the person who makes the sale unless he
2 or she takes from the purchaser (i) a resale certificate to the
3 effect that the property is purchased for the purpose of reselling,
4 leasing, or renting it, (ii) an exemption certificate pursuant to
5 subsection (7) of section 77-2705, or (iii) a direct payment permit
6 pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale
7 certificate, exemption certificate, or direct payment permit shall
8 be conclusive proof for the seller that the sale was made for
9 resale or was exempt or that the tax will be paid directly to the
10 state.

11 (g) In the rental or lease of automobiles, trucks,
12 trailers, semitrailers, and truck-tractors as defined in the Motor
13 Vehicle Registration Act, the tax shall be collected by the lessor
14 on the rental or lease price at the tax rate in effect on the date
15 the automobile, truck, trailer, semitrailer, or truck-tractor is
16 delivered to the lessee, except as otherwise provided within this
17 section.

18 (h) In the rental or lease of automobiles, trucks,
19 trailers, semitrailers, and truck-tractors as defined in the act,
20 for periods of one year or more, the lessor may elect not to
21 collect and remit the sales tax on the gross receipts and instead
22 pay a sales tax on the cost of such vehicle. If such election is
23 made, it shall be made pursuant to the following conditions:

24 (i) Notice of the desire to make such election shall
25 be filed with the Tax Commissioner and shall not become effective

1 until the Tax Commissioner is satisfied that the taxpayer has
2 complied with all conditions of this subsection and all rules and
3 regulations of the Tax Commissioner;

4 (ii) Such election when made shall continue in force and
5 effect for a period of not less than two years and thereafter until
6 such time as the lessor elects to terminate the election;

7 (iii) When such election is made, it shall apply to all
8 vehicles of the lessor rented or leased for periods of one year or
9 more except vehicles to be leased to common or contract carriers
10 who provide to the lessor a valid common or contract carrier
11 exemption certificate. If the lessor rents or leases other vehicles
12 for periods of less than one year, such lessor shall maintain his
13 or her books and records and his or her accounting procedure as the
14 Tax Commissioner prescribes; and

15 (iv) The Tax Commissioner by rule and regulation shall
16 prescribe the contents and form of the notice of election, a
17 procedure for the determination of the tax base of vehicles which
18 are under an existing lease at the time such election becomes
19 effective, the method and manner for terminating such election, and
20 such other rules and regulations as may be necessary for the proper
21 administration of this subdivision.

22 (i) The tax imposed by this section on the sales of
23 motor vehicles, semitrailers, and trailers as defined in sections
24 60-339, 60-348, and 60-354 shall be the liability of the purchaser
25 and, with the exception of motor vehicles, semitrailers, and

1 trailers registered pursuant to section 60-3,198, the tax shall
2 be collected by the county treasurer or designated county official
3 as provided in the Motor Vehicle Registration Act at the time
4 the purchaser makes application for the registration of the motor
5 vehicle, semitrailer, or trailer for operation upon the highways
6 of this state. The tax imposed by this section on motor vehicles,
7 semitrailers, and trailers registered pursuant to section 60-3,198
8 shall be collected by the Department of Motor Vehicles at the time
9 the purchaser makes application for the registration of the motor
10 vehicle, semitrailer, or trailer for operation upon the highways
11 of this state. At the time of the sale of any motor vehicle,
12 semitrailer, or trailer, the seller shall (i) state on the sales
13 invoice the dollar amount of the tax imposed under this section
14 and (ii) furnish to the purchaser a certified statement of the
15 transaction, in such form as the Tax Commissioner prescribes,
16 setting forth as a minimum the total sales price, the allowance for
17 any trade-in, and the difference between the two. The sales tax due
18 shall be computed on the difference between the total sales price
19 and the allowance for any trade-in as disclosed by such certified
20 statement. Any seller who willfully understates the amount upon
21 which the sales tax is due shall be subject to a penalty of one
22 thousand dollars. A copy of such certified statement shall also
23 be furnished to the Tax Commissioner. Any seller who fails or
24 refuses to furnish such certified statement shall be guilty of
25 a misdemeanor and shall, upon conviction thereof, be punished by

1 a fine of not less than twenty-five dollars nor more than one
2 hundred dollars. If the seller fails to state on the sales invoice
3 the dollar amount of the tax due, the purchaser shall have the
4 right and authority to rescind any agreement for purchase and
5 to declare the purchase null and void. If the purchaser retains
6 such motor vehicle, semitrailer, or trailer in this state and
7 does not register it for operation on the highways of this state
8 within thirty days of the purchase thereof, the tax imposed by
9 this section shall immediately thereafter be paid by the purchaser
10 to the county treasurer, the designated county official, or the
11 Department of Motor Vehicles. If the tax is not paid on or
12 before the thirtieth day after its purchase, the county treasurer,
13 designated county official, or Department of Motor Vehicles shall
14 also collect from the purchaser interest from the thirtieth day
15 through the date of payment and sales tax penalties as provided in
16 the Nebraska Revenue Act of 1967. The county treasurer, designated
17 county official, or Department of Motor Vehicles shall report and
18 remit the tax so collected to the Tax Commissioner by the fifteenth
19 day of the following month. The county treasurer or designated
20 county official shall deduct and withhold for the use of the county
21 general fund, from all amounts required to be collected under
22 this subsection, the collection fee permitted to be deducted by
23 any retailer collecting the sales tax. The Department of Motor
24 Vehicles shall deduct, withhold, and deposit in the Motor Carrier
25 Division Cash Fund the collection fee permitted to be deducted by

1 any retailer collecting the sales tax. The collection fee shall
2 be forfeited if the county treasurer, designated county official,
3 or Department of Motor Vehicles violates any rule or regulation
4 pertaining to the collection of the use tax.

5 (j)(i) The tax imposed by this section on the sale of a
6 motorboat as defined in section 37-1204 shall be the liability of
7 the purchaser. The tax shall be collected by the county treasurer
8 or designated county official at the time the purchaser makes
9 application for the registration of the motorboat. At the time
10 of the sale of a motorboat, the seller shall (A) state on the
11 sales invoice the dollar amount of the tax imposed under this
12 section and (B) furnish to the purchaser a certified statement of
13 the transaction, in such form as the Tax Commissioner prescribes,
14 setting forth as a minimum the total sales price, the allowance for
15 any trade-in, and the difference between the two. The sales tax due
16 shall be computed on the difference between the total sales price
17 and the allowance for any trade-in as disclosed by such certified
18 statement. Any seller who willfully understates the amount upon
19 which the sales tax is due shall be subject to a penalty of one
20 thousand dollars. A copy of such certified statement shall also
21 be furnished to the Tax Commissioner. Any seller who fails or
22 refuses to furnish such certified statement shall be guilty of a
23 misdemeanor and shall, upon conviction thereof, be punished by a
24 fine of not less than twenty-five dollars nor more than one hundred
25 dollars. If the seller fails to state on the sales invoice the

1 dollar amount of the tax due, the purchaser shall have the right
2 and authority to rescind any agreement for purchase and to declare
3 the purchase null and void. If the purchaser retains such motorboat
4 in this state and does not register it within thirty days of the
5 purchase thereof, the tax imposed by this section shall immediately
6 thereafter be paid by the purchaser to the county treasurer or
7 designated county official. If the tax is not paid on or before
8 the thirtieth day after its purchase, the county treasurer or
9 designated county official shall also collect from the purchaser
10 interest from the thirtieth day through the date of payment and
11 sales tax penalties as provided in the Nebraska Revenue Act of
12 1967. The county treasurer or designated county official shall
13 report and remit the tax so collected to the Tax Commissioner by
14 the fifteenth day of the following month. The county treasurer or
15 designated county official shall deduct and withhold for the use of
16 the county general fund, from all amounts required to be collected
17 under this subsection, the collection fee permitted to be deducted
18 by any retailer collecting the sales tax. The collection fee shall
19 be forfeited if the county treasurer or designated county official
20 violates any rule or regulation pertaining to the collection of the
21 use tax.

22 (ii) In the rental or lease of motorboats, the tax shall
23 be collected by the lessor on the rental or lease price.

24 (k) The Tax Commissioner shall adopt and promulgate
25 necessary rules and regulations for determining the amount subject

1 to the taxes imposed by this section so as to insure that the
2 full amount of any applicable tax is paid in cases in which a
3 sale is made of which a part is subject to the taxes imposed by
4 this section and a part of which is not so subject and a separate
5 accounting is not practical or economical.

6 (2) A use tax is hereby imposed on the storage, use, or
7 other consumption in this state of property purchased, leased, or
8 rented from any retailer and on any transaction the gross receipts
9 of which are subject to tax under subsection (1) of this section
10 on or after June 1, 1967, for storage, use, or other consumption
11 in this state at the rate set as provided in subsection (1) of
12 this section on the sales price of the property or, in the case of
13 leases or rentals, of the lease or rental prices.

14 (a) Every person storing, using, or otherwise consuming
15 in this state property purchased from a retailer or leased or
16 rented from another person for such purpose shall be liable for the
17 use tax at the rate in effect when his or her liability for the
18 use tax becomes certain under the accounting basis used to maintain
19 his or her books and records. His or her liability shall not be
20 extinguished until the use tax has been paid to this state, except
21 that a receipt from a retailer engaged in business in this state
22 or from a retailer who is authorized by the Tax Commissioner, under
23 such rules and regulations as he or she may prescribe, to collect
24 the sales tax and who is, for the purposes of the Nebraska Revenue
25 Act of 1967 relating to the sales tax, regarded as a retailer

1 engaged in business in this state, which receipt is given to the
2 purchaser pursuant to subdivision (b) of this subsection, shall be
3 sufficient to relieve the purchaser from further liability for the
4 tax to which the receipt refers.

5 (b) Every retailer engaged in business in this state and
6 selling, leasing, or renting property for storage, use, or other
7 consumption in this state shall, at the time of making any sale,
8 collect any tax which may be due from the purchaser and shall give
9 to the purchaser, upon request, a receipt therefor in the manner
10 and form prescribed by the Tax Commissioner.

11 (c) The Tax Commissioner, in order to facilitate the
12 proper administration of the use tax, may designate such person or
13 persons as he or she may deem necessary to be use tax collectors
14 and delegate to such persons such authority as is necessary to
15 collect any use tax which is due and payable to the State of
16 Nebraska. The Tax Commissioner may require of all persons so
17 designated a surety bond in favor of the State of Nebraska to
18 insure against any misappropriation of state funds so collected.
19 The Tax Commissioner may require any tax official, city, county, or
20 state, to collect the use tax on behalf of the state. All persons
21 designated to or required to collect the use tax shall account for
22 such collections in the manner prescribed by the Tax Commissioner.
23 Nothing in this subdivision shall be so construed as to prevent the
24 Tax Commissioner or his or her employees from collecting any use
25 taxes due and payable to the State of Nebraska.

1 (d) All persons designated to collect the use tax and all
2 persons required to collect the use tax shall forward the total of
3 such collections to the Tax Commissioner at such time and in such
4 manner as the Tax Commissioner may prescribe. For all use taxes
5 collected prior to October 1, 2002, such collectors of the use tax
6 shall deduct and withhold from the amount of taxes collected two
7 and one-half percent of the first three thousand dollars remitted
8 each month and one-half of one percent of all amounts in excess
9 of three thousand dollars remitted each month as reimbursement
10 for the cost of collecting the tax. For use taxes collected on
11 and after October 1, 2002, such collectors of the use tax shall
12 deduct and withhold from the amount of taxes collected two and
13 one-half percent of the first three thousand dollars remitted each
14 month as reimbursement for the cost of collecting the tax. Any
15 such deduction shall be forfeited to the State of Nebraska if such
16 collector violates any rule, regulation, or directive of the Tax
17 Commissioner.

18 (e) For the purpose of the proper administration of the
19 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,
20 it shall be presumed that property sold, leased, or rented by any
21 person for delivery in this state is sold, leased, or rented for
22 storage, use, or other consumption in this state until the contrary
23 is established. The burden of proving the contrary is upon the
24 person who purchases, leases, or rents the property.

25 (f) For the purpose of the proper administration of the

1 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,
2 for the sale of property to an advertising agency which purchases
3 the property as an agent for a disclosed or undisclosed principal,
4 the advertising agency is and remains liable for the sales and
5 use tax on the purchase the same as if the principal had made the
6 purchase directly.

7 Sec. 16. Section 77-2703.01, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 77-2703.01 (1) The determination of whether a sale or use
10 of property or the provision of services is in this state, in a
11 municipality that has adopted a tax under the Local Option Revenue
12 Act, or in a county that has adopted a tax under section 13-319
13 shall be governed by the sourcing rules in sections 77-2703.01 to
14 77-2703.04.

15 (2) When the property or service is received by the
16 purchaser at a business location of the retailer, the sale is
17 sourced to that business location.

18 (3) When the property or service is not received by the
19 purchaser at a business location of the retailer, the sale is
20 sourced to the location where receipt by the purchaser or the
21 purchaser's donee, designated as such by the purchaser, occurs,
22 including the location indicated by instructions for delivery to
23 the purchaser or donee, known to the retailer.

24 (4) When subsection (2) or (3) of this section does not
25 apply, the sale is sourced to the location indicated by an address

1 or other information for the purchaser that is available from
2 the business records of the retailer that are maintained in the
3 ordinary course of the retailer's business when use of this address
4 does not constitute bad faith.

5 (5) When subsection (2), (3), or (4) of this section does
6 not apply, the sale is sourced to the location indicated by an
7 address for the purchaser obtained during the consummation of the
8 sale, including the address of a purchaser's payment instrument, if
9 no other address is available, when use of this address does not
10 constitute bad faith.

11 (6) When subsection (2), (3), (4), or (5) of this section
12 does not apply, including the circumstance in which the retailer
13 is without sufficient information to apply the rules in any such
14 subsection, then the location will be determined by the address
15 from which property was shipped, from which the digital good was
16 first available for transmission by the retailer, or from which the
17 service was provided disregarding for these purposes any location
18 that merely provided the digital transfer of the product sold.

19 (7) The lease or rental of tangible personal property,
20 other than property identified in subsection (8) or (9) of this
21 section, shall be sourced as follows:

22 (a) For a lease or rental that requires recurring
23 periodic payments, the first periodic payment is sourced the same
24 as a retail sale in accordance with the provisions of subsections
25 (2) through (6) of this section. Periodic payments made subsequent

1 to the first payment are sourced to the primary property location
2 for each period covered by the payment. The primary property
3 location shall be as indicated by an address for the property
4 provided by the lessee that is available to the lessor from its
5 records maintained in the ordinary course of business when use of
6 this address does not constitute bad faith. The property location
7 shall not be altered by intermittent use at different locations,
8 such as use of business property that accompanies employees on
9 business trips and service calls; and

10 (b) For a lease or rental that does not require recurring
11 periodic payments, the payment is sourced the same as a retail sale
12 in accordance with the provisions of subsections (2) through (6) of
13 this section.

14 This subsection does not affect the imposition or
15 computation of sales or use tax on leases or rentals based on a
16 lump-sum or accelerated basis or on the acquisition of property
17 for lease.

18 (8) The lease or rental of motor vehicles, trailers,
19 semitrailers, or aircraft that do not qualify as transportation
20 equipment under subsection (9) of this section shall be sourced as
21 follows:

22 (a) For a lease or rental that requires recurring
23 periodic payments, each periodic payment is sourced to the primary
24 property location. The primary property location shall be as
25 indicated by an address for the property provided by the lessee

1 that is available to the lessor from its records maintained in
2 the ordinary course of business when use of this address does
3 not constitute bad faith. This location shall not be altered by
4 intermittent use at different locations; and

5 (b) For a lease or rental that does not require recurring
6 periodic payments, the payment is sourced the same as a retail sale
7 in accordance with the provisions of subsections (2) through (6) of
8 this section.

9 This subsection does not affect the imposition or
10 computation of sales or use tax on leases or rentals based on a
11 lump-sum or accelerated basis or on the acquisition of property
12 for lease.

13 (9) The retail sale, including lease or rental, of
14 transportation equipment shall be sourced the same as a retail sale
15 in accordance with subsections (2) through (6) of this section.
16 Transportation equipment means any of the following:

17 (a) Locomotives and railcars that are utilized for the
18 carriage of persons or property in interstate commerce;

19 (b) Trucks and truck-tractors with a gross vehicle
20 weight rating of ten thousand one pounds or greater, trailers,
21 semitrailers, or passenger buses that are (i) registered through
22 the International Registration Plan and (ii) operated under
23 authority of a carrier authorized and certificated by the United
24 States Department of Transportation or another federal authority
25 to engage in the carriage of persons or property in interstate

1 commerce;

2 (c) Aircraft operated by air carriers authorized and
3 certificated by the United States Department of Transportation or
4 another federal authority or a foreign authority to engage in the
5 carriage of persons or property in interstate or foreign commerce;
6 and

7 (d) Containers designed for use on and component parts
8 attached or secured on the items set forth in subdivisions (9) (a)
9 through (c) of this section.

10 (10) For purposes of this section, receive and receipt
11 mean taking possession of tangible personal property, making first
12 use of services, or taking possession or making first use of
13 digital goods, whichever comes first. The terms receive and receipt
14 do not include possession by a shipping company on behalf of the
15 purchaser. For purposes of sourcing detective services subject to
16 tax under subdivision ~~(10)(i)~~ (10)(h) of section 77-2701.16, making
17 first use of a service shall be deemed to be at the individual's
18 residence, in the case of a customer who is an individual, or
19 at the principal place of business, in the case of a business
20 customer.

21 (11) The sale, not including lease or rental, of a motor
22 vehicle, semitrailer, or trailer as defined in the Motor Vehicle
23 Registration Act shall be sourced to the place of registration of
24 the motor vehicle, semitrailer, or trailer for operation upon the
25 highways of this state.

1 (12) The sale or lease for one year or more of motorboats
2 shall be sourced to the place of registration of the motorboat. The
3 lease of motorboats for less than one year shall be sourced to the
4 point of delivery.

5 Sec. 17. Section 77-2704.33, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 77-2704.33 (1) When a written contract exists for a
8 fixed price for a construction, reconstruction, alteration, or
9 improvement project and the sales tax rate is increased during
10 the term of that fixed-price contract, the contractor may apply
11 for a refund of the increased sales tax amount if such refund
12 amount exceeds ten dollars. The contractor shall be refunded such
13 increased amount if the contractor certifies that the contract
14 was entered into prior to the increase in the tax and that the
15 increased tax for which the refund is requested was paid on the
16 building materials annexed to real estate in the project. The
17 contractor shall agree to submit a copy of the contract or other
18 evidence necessary to prove the validity of the application to the
19 satisfaction of the Tax Commissioner. In the event that the sales
20 tax rate is decreased during the term of that fixed-price contract,
21 the contractor shall pay to the Department of Revenue the decreased
22 sales tax amount if the amount of such payment exceeds ten dollars.
23 Failure by a contractor to pay the decreased sales tax amount
24 as provided in this subsection shall be a Class I misdemeanor
25 if the amount is three hundred dollars or more and a Class IIIA

1 misdemeanor in all other cases.

2 (2) ~~When a written contract exists for a fixed price for~~
3 ~~a construction, reconstruction, alteration, or improvement project~~
4 ~~and the construction services became subject to the sales and use~~
5 ~~tax during the term of that fixed-price contract, the taxpayer~~
6 ~~may apply for a refund of the increased sales tax amount if such~~
7 ~~refund amount exceeds ten dollars. The taxpayer shall be refunded~~
8 ~~such increased amount if the taxpayer certifies that the contract~~
9 ~~was entered into prior to the increase in the tax and that the~~
10 ~~increased tax for which the refund is requested was paid on the~~
11 ~~construction services. The taxpayer shall agree to submit a copy of~~
12 ~~the contract or other evidence necessary to prove the validity of~~
13 ~~the application to the satisfaction of the Tax Commissioner. In the~~
14 ~~event that construction services are removed from the sales and use~~
15 ~~tax base during the term of a fixed-price contract, the taxpayer~~
16 ~~shall pay to the Department of Revenue the decreased sales tax~~
17 ~~amount if the amount of such payment exceeds ten dollars. Failure~~
18 ~~by a taxpayer to pay the decreased sales tax amount as provided in~~
19 ~~this subsection shall be a Class I misdemeanor if the amount is~~
20 ~~three hundred dollars or more and a Class IIIA misdemeanor in all~~
21 ~~other cases.~~

22 Sec. 18. Section 77-2704.55, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 77-2704.55 (1) Sales and use taxes shall not be
25 imposed on the gross receipts for the labor of a contractor as

1 determined in subdivision ~~(10)(e)~~ of section 77-2701.16 purchased
2 in connection with the following types of construction projects:

3 ~~(a) The first or original construction of a new~~
4 ~~structure, building, or unit;~~

5 ~~(b) The construction, repair, or annexation of any~~
6 ~~structure used for the generation, transmission, or distribution of~~
7 ~~electricity;~~

8 ~~(c) The major addition, remodeling, restoration, repair,~~
9 ~~or renovation of an existing structure or building or a unit of~~
10 ~~an existing building that is a single construction project of any~~
11 ~~type that costs at least fifty percent of the current value of the~~
12 ~~existing structure or building or unit of an existing building; or~~

13 ~~(d) Commencing July 1, 2006, construction services on~~
14 ~~dwelling designed for occupancy by one family or duplexes designed~~
15 ~~for occupancy by two families.~~

16 ~~(2) For purposes of this section:~~

17 ~~(a) Building means any freestanding structure annexed to~~
18 ~~land, enclosed within a roof and exterior walls, regardless of~~
19 ~~whether enclosed on all sides;~~

20 ~~(b) Current value means the current assessed value of~~
21 ~~the structure, building, or unit as determined in the records~~
22 ~~of the county assessor. If the county assessor has no current~~
23 ~~assessed value, the current value shall be the market value of~~
24 ~~the structure, building, or unit as shown by an appraisal of the~~
25 ~~property that has been performed by a licensed appraiser within six~~

1 months prior to commencement of the construction project;

2 (c) Dwelling means a residential structure. Dwelling
3 includes an attached or detached garage. Dwelling does not include
4 fences, landscaping, retaining walls, storage buildings, or other
5 structures that are not designed for human habitation;

6 (d) Owner-occupied residential unit means a residential
7 unit in a dwelling complex containing three or more units actually
8 occupied by a natural person who is the owner of record or who has
9 a life tenancy therein at the time the construction or repair work
10 is performed;

11 (e) Structure means any construction composed of building
12 materials arranged and fitted together in some way. Structure
13 includes, but is not limited to, streets and roadways, street
14 lighting, and sewers and waterlines; and

15 (f) Unit means a physical portion of a building
16 designated for separate ownership, rental, or occupancy. If a unit
17 of a building is to be renovated and the current value is known
18 only for the building, the current value for the building shall be
19 apportioned to the unit based on square footage of floor space.

20 (3) (1) Construction services performed on an
21 owner-occupied residential unit shall be subject to tax, but
22 commencing July 1, 2006, prior to October 1, 2007, but the owner
23 shall be entitled to a refund of any sales and use taxes paid by
24 the owner on construction services pursuant to this subsection. A
25 taxpayer shall be entitled to a refund of any sales tax paid on

1 the gross receipts for the labor of a contractor for any major
2 addition, remodeling, restoration, repair, or renovation described
3 in this section as it existed prior to October 1, 2007. The refund
4 granted in this subsection shall be conditioned upon filing a claim
5 for the refund on a form developed by the Tax Commissioner. The
6 requirements imposed by the Tax Commissioner shall be related to
7 ensuring that the project qualifies for the refund. Any information
8 received pursuant to the requirements of this subsection may
9 be disclosed to any tax official in this state. Any taxpayer
10 who provides false information on the forms required by the Tax
11 Commissioner for purposes of this subsection shall be subject to
12 the penalties provided in subsection (8) of section 77-2705.

13 ~~(4)(a) Until July 1, 2007, a taxpayer may seek prior~~
14 ~~approval from the Department of Revenue that the project, if~~
15 ~~substantially completed according to designs and specifications~~
16 ~~submitted with the application to the department, meets the~~
17 ~~requirements for a major addition, remodeling, restoration, repair,~~
18 ~~or renovation under this section and the labor performed in~~
19 ~~annexing the building materials to real estate will be exempt from~~
20 ~~tax.~~

21 ~~(b) The approval granted in this subsection shall be~~
22 ~~conditioned upon filing an application on a form developed by the~~
23 ~~Tax Commissioner with an application fee of five hundred dollars.~~
24 ~~The application fee shall be remitted to the State Treasurer for~~
25 ~~credit to the Department of Revenue Contractor Enforcement Fund.~~

1 The application shall be supported by designs, specifications,
2 contract amount, and the current value. Any requirements imposed by
3 the Tax Commissioner shall be related to ensuring that the project
4 qualifies for the exemption so long as the project is completed
5 in substantial conformity with the designs and specifications
6 submitted with the application.

7 (c) The Tax Commissioner shall approve or deny the
8 application within sixty business days after receiving the
9 application. Within sixty days after the completion of the
10 renovation, a licensed architect or engineer shall certify to the
11 Tax Commissioner that the renovation was completed in substantial
12 conformity with the designs and specifications submitted with the
13 application or shall amend the original application to describe the
14 project as actually completed.

15 (d) Any information received pursuant to the requirements
16 of this subsection may be disclosed to any tax official in this
17 state. Any person who provides false information on the forms or
18 designs and specifications required by the Tax Commissioner for
19 purposes of this subsection shall be subject to the penalties
20 provided in subsection (8) of section 77-2705.

21 (5) The provisions of this section shall not excuse any
22 person from the obligation to collect sales tax on retail sales of
23 property not annexed to real estate or from the obligation to pay
24 the sales tax or remit the use tax on tools, services, and other
25 materials consumed that are not annexed to real estate.

1 ~~(6)~~ (2) The Department of Revenue Contractor Enforcement
2 Fund is created. Any money in the fund available for investment
3 shall be invested by the state investment officer pursuant to
4 the Nebraska Capital Expansion Act and the Nebraska State Funds
5 Investment Act.

6 Sec. 19. Section 77-2715.02, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 77-2715.02 (1) Whenever the primary rate is changed by
9 the Legislature under section 77-2715.01, the Tax Commissioner
10 shall update the rate schedules required in subsection (2) of this
11 section to reflect the new primary rate and shall publish such
12 updated schedules.

13 (2) The following rate schedules are hereby established
14 for the Nebraska individual income tax and shall be in the
15 following form:

16 (a) The For taxable years beginning or deemed to begin
17 before January 1, 2007, income amounts for columns A and E shall
18 be:

19 (i) \$0, \$2,400, \$17,500, and \$27,000, for single returns;

20 (ii) \$0, \$4,000, \$31,000, and \$50,000, for married filing
21 joint returns;

22 (iii) \$0, \$3,800, \$25,000, and \$35,000, for
23 head-of-household returns;

24 (iv) \$0, \$2,000, \$15,500, and \$25,000, for married filing
25 separate returns; and

1 (v) \$0, \$500, \$4,700, and \$15,150, for estates and
2 trusts;

3 **(b) For taxable years beginning or deemed to begin on or**
4 **after January 1, 2007, income amounts for columns A and E shall be:**

5 **(i) \$0, \$2,400, \$17,500, and \$27,000, for single returns;**

6 **(ii) \$0, \$4,800, \$35,000, and \$54,000, for married filing**
7 **joint returns;**

8 **(iii) \$0, \$4,500, \$28,000, and \$40,000, for**
9 **head-of-household returns;**

10 **(iv) \$0, \$2,400, \$17,500, and \$27,000, for married filing**
11 **separate returns; and**

12 **(v) \$0, \$500, \$4,700, and \$15,150, for estates and**
13 **trusts;**

14 ~~(b)~~ (c) The amount in column C shall be the total amount
15 of the tax imposed on income less than the amount in column A;

16 ~~(e)~~ (d) The amount in column D shall be the rate on the
17 income in excess of the amount in column E;

18 ~~(d)~~ (e) For taxable years beginning or deemed to begin
19 before January 1, 2003, under the Internal Revenue Code of 1986,
20 as amended, the primary rate set by the Legislature shall be
21 multiplied by the following factors to compute the tax rates for
22 column D. The factors for the brackets, from lowest to highest
23 bracket, shall be .6784, .9432, 1.3541, and 1.8054;

24 ~~(e)~~ (f) For taxable years beginning or deemed to begin
25 on or after January 1, 2003, under the Internal Revenue Code of

1 1986, as amended, the primary rate set by the Legislature shall
 2 be multiplied by the following factors to compute the tax rates
 3 for column D. The factors for the brackets, from lowest to highest
 4 bracket, shall be .6932, .9646, 1.3846, and 1.848;

5 ~~(f)~~ (g) The amounts for column C shall be rounded to the
 6 nearest dollar, and the amounts in column D shall be rounded to
 7 hundredths of one percent; and

8 ~~(g)~~ (h) One rate schedule shall be established for each
 9 federal filing status.

10 (3) The tax rate schedules shall use the format set forth
 11 in this subsection.

12	A	B	C	D	E
13	Taxable income	but not	pay	plus	of the
14	over	over			amount over

15 (4) The tax rate applied to other federal taxes included
 16 in the computation of the Nebraska individual income tax shall be
 17 eight times the primary rate.

18 (5) The Tax Commissioner shall prepare, from the rate
 19 schedules, tax tables which can be used by a majority of the
 20 taxpayers to determine their Nebraska tax liability. The design of
 21 the tax tables shall be determined by the Tax Commissioner. The
 22 size of the tax table brackets may change as the level of income
 23 changes. The difference in tax between two tax table brackets shall
 24 not exceed fifteen dollars. The Tax Commissioner may build the

1 personal exemption credit and standard deduction amounts into the
2 tax tables.

3 (6) The Tax Commissioner may require by rule and
4 regulation that all taxpayers shall use the tax tables if their
5 income is less than the maximum income included in the tax tables.

6 Sec. 20. Section 77-2715.07, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 77-2715.07 (1) There shall be allowed to qualified
9 resident individuals as a nonrefundable credit against the income
10 tax imposed by the Nebraska Revenue Act of 1967:

11 (a) A credit equal to the federal credit allowed under
12 section 22 of the Internal Revenue Code; and

13 (b) A credit for taxes paid to another state as provided
14 in section 77-2730.

15 (2) There shall be allowed to qualified resident
16 individuals against the income tax imposed by the Nebraska Revenue
17 Act of 1967:

18 (a) For returns filed reporting federal adjusted
19 gross incomes of greater than twenty-nine thousand dollars, a
20 nonrefundable credit equal to twenty-five percent of the federal
21 credit allowed under section 21 of the Internal Revenue Code of
22 1986, as amended;

23 (b) For returns filed reporting federal adjusted gross
24 income of twenty-nine thousand dollars or less, a refundable credit
25 equal to a percentage of the federal credit allowable under section

1 21 of the Internal Revenue Code of 1986, as amended, whether or
2 not the federal credit was limited by the federal tax liability.
3 The percentage of the federal credit shall be one hundred percent
4 for incomes not greater than twenty-two thousand dollars, and
5 the percentage shall be reduced by ten percent for each one
6 thousand dollars, or fraction thereof, by which the reported
7 federal adjusted gross income exceeds twenty-two thousand dollars;

8 (c) A refundable credit for individuals who qualify for
9 an income tax credit as an owner of agricultural assets under the
10 Beginning Farmer Tax Credit Act for all taxable years beginning or
11 deemed to begin on or after January 1, 2001, under the Internal
12 Revenue Code of 1986, as amended; and a refundable credit as
13 provided in section 77-5209.01 for individuals who qualify for an
14 income tax credit as a qualified beginning farmer or livestock
15 producer under the Beginning Farmer Tax Credit Act for all taxable
16 years beginning or deemed to begin on or after January 1, 2006,
17 under the Internal Revenue Code of 1986, as amended;

18 (d) A refundable credit for individuals who qualify for
19 an income tax credit under the Nebraska Advantage Microenterprise
20 Tax Credit Act or the Nebraska Advantage Research and Development
21 Act; and

22 (e) A refundable credit equal to ~~eight~~ ten percent of the
23 federal credit allowed under section 32 of the Internal Revenue
24 Code of 1986, as amended.

25 (3) There shall be allowed to all individuals as a

1 nonrefundable credit against the income tax imposed by the Nebraska
2 Revenue Act of 1967:

3 (a) A credit for personal exemptions allowed under
4 section 77-2716.01; and

5 (b) A credit for contributions to certified community
6 betterment programs as provided in the Community Development
7 Assistance Act. Each partner, each shareholder of an electing
8 subchapter S corporation, each beneficiary of an estate or trust,
9 or each member of a limited liability company shall report his or
10 her share of the credit in the same manner and proportion as he
11 or she reports the partnership, subchapter S corporation, estate,
12 trust, or limited liability company income.

13 (4) There shall be allowed as a credit against the income
14 tax imposed by the Nebraska Revenue Act of 1967:

15 (a) A credit to all resident estates and trusts for taxes
16 paid to another state as provided in section 77-2730; and

17 (b) A credit to all estates and trusts for contributions
18 to certified community betterment programs as provided in the
19 Community Development Assistance Act.

20 ~~(5) There shall be allowed to all business firms as a~~
21 ~~credit against the income tax imposed by the Nebraska Revenue Act~~
22 ~~of 1967 a credit as provided in section 77-27,222.~~

23 Sec. 21. Section 77-2716.01, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 77-2716.01 (1) Every individual shall be allowed to

1 subtract from his or her income tax liability an amount for
2 personal exemptions. The amount allowed to be subtracted shall
3 be the credit amount for the year as provided in this section
4 multiplied by the number of exemptions allowed on the federal
5 return. For tax year 1993, the credit amount shall be sixty-five
6 dollars; for tax year 1994, the credit amount shall be sixty-nine
7 dollars; for tax year 1995, the credit amount shall be sixty-nine
8 dollars; for tax year 1996, the credit amount shall be seventy-two
9 dollars; for tax year 1997, the credit amount shall be eighty-six
10 dollars; for tax year 1998, the credit amount shall be eighty-eight
11 dollars; for tax year 1999, and each year thereafter, the credit
12 amount shall be adjusted for inflation by the method provided in
13 section 151 of the Internal Revenue Code of 1986, as amended. The
14 eighty-eight-dollar credit amount shall be adjusted for cumulative
15 inflation since 1998. If any credit amount is not an even dollar
16 amount, the amount shall be rounded to the nearest dollar. For
17 nonresident individuals and partial-year resident individuals, the
18 personal exemption credit shall be subtracted as specified in
19 subsection (3) of section 77-2715.

20 ~~(2)(a) For tax years beginning or deemed to begin before~~
21 ~~January 1, 2003, under the Internal Revenue Code of 1986, as~~
22 ~~amended, every individual who did not itemize deductions on his~~
23 ~~or her federal return shall be allowed to subtract from federal~~
24 ~~adjusted gross income a standard deduction equal to the federal~~
25 ~~standard deduction for the filing status used on the federal return~~

1 ~~except as the amount is adjusted under section 77-2716.03.~~

2 ~~(b)~~ (2)(a) For tax years beginning or deemed to begin
3 on or after January 1, 2003, and before January 1, 2004, under
4 the Internal Revenue Code of 1986, as amended, every individual
5 who did not itemize deductions on his or her federal return
6 shall be allowed to subtract from federal adjusted gross income
7 a standard deduction based on the filing status used on the
8 federal return except as the amount is adjusted under section
9 77-2716.03. The standard deduction shall be the smaller of the
10 federal standard deduction actually allowed or (i) for single
11 taxpayers four thousand seven hundred fifty dollars, (ii) for head
12 of household taxpayers seven thousand dollars, (iii) for married
13 filing jointly taxpayers seven thousand nine hundred fifty dollars,
14 and (iv) for married filing separately taxpayers three thousand
15 nine hundred seventy-five dollars. Taxpayers who are allowed
16 additional federal standard deduction amounts because of age or
17 blindness shall be allowed an increase in the Nebraska standard
18 deduction for each additional amount allowed on the federal return.
19 The additional amounts shall be for married taxpayers, nine hundred
20 fifty dollars, and for single or head of household taxpayers, one
21 thousand one hundred fifty dollars.

22 (b) For tax years beginning or deemed to begin on or
23 after January 1, 2007, under the Internal Revenue Code of 1986,
24 as amended, every individual who did not itemize deductions on his
25 or her federal return shall be allowed to subtract from federal

1 adjusted gross income a standard deduction based on the filing
2 status used on the federal return. The standard deduction shall
3 be the smaller of the federal standard deduction actually allowed
4 or (i) for single taxpayers three thousand dollars and (ii) for
5 head of household taxpayers four thousand four hundred dollars. The
6 standard deduction for married filing jointly taxpayers shall be
7 double the standard deduction for single taxpayers, and for married
8 filing separately taxpayers, the standard deduction shall be the
9 same as single taxpayers. Taxpayers who are allowed additional
10 federal standard deduction amounts because of age or blindness
11 shall be allowed an increase in the Nebraska standard deduction
12 for each additional amount allowed on the federal return. The
13 additional amounts shall be for married taxpayers six hundred
14 dollars and for single or head of household taxpayers seven hundred
15 fifty dollars. The amounts in this subdivision will be indexed
16 using 1987 as the base year.

17 (c) For tax years beginning or deemed to begin on or
18 after January 1, 2004, 2007, the standard deduction amounts,
19 including the additional standard deduction amounts, in ~~subdivision~~
20 ~~(2)(b)~~ of this section this subsection shall be adjusted for
21 inflation by the method provided in section 151 of the Internal
22 Revenue Code of 1986, as amended. If any amount is not a multiple
23 of ~~ten~~ fifty dollars, the amount shall be rounded to the next
24 ~~highest~~ lowest multiple of ~~ten~~ fifty dollars. ~~except that the~~
25 ~~standard deduction for the married filing separately taxpayers may~~

1 ~~be a multiple of five dollars.~~

2 (3) Every individual who itemized deductions on his or
3 her federal return shall be allowed to subtract from federal
4 adjusted gross income the greater of either the standard deduction
5 allowed in subsection (2) of this section or his or her federal
6 itemized deductions, except for the amount for state or local
7 income taxes included in federal itemized deductions before any
8 federal disallowance.

9 Sec. 22. Section 77-2717, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 77-2717 (1)(a) The tax imposed on all resident estates
12 and trusts shall be a percentage of the federal taxable income
13 of such estates and trusts as modified in section 77-2716, plus
14 a percentage of the federal alternative minimum tax and the
15 federal tax on premature or lump-sum distributions from qualified
16 retirement plans. The additional taxes shall be recomputed by (i)
17 substituting Nebraska taxable income for federal taxable income,
18 (ii) calculating what the federal alternative minimum tax would
19 be on Nebraska taxable income and adjusting such calculations for
20 any items which are reflected differently in the determination of
21 federal taxable income, and (iii) applying Nebraska rates to the
22 result. The federal credit for prior year minimum tax, after the
23 recomputations required by the Nebraska Revenue Act of 1967, and
24 the credits provided in the Nebraska Advantage Microenterprise Tax
25 Credit Act, and the Nebraska Advantage Research and Development

1 Act~~7~~ and section ~~77-27,222~~ shall be allowed as a reduction in the
2 income tax due. A refundable income tax credit shall be allowed
3 for all resident estates and trusts under the Nebraska Advantage
4 Microenterprise Tax Credit Act and the Nebraska Advantage Research
5 and Development Act.

6 (b) The tax imposed on all nonresident estates and trusts
7 shall be the portion of the tax imposed on resident estates and
8 trusts which is attributable to the income derived from sources
9 within this state. The tax which is attributable to income derived
10 from sources within this state shall be determined by multiplying
11 the liability to this state for a resident estate or trust with
12 the same total income by a fraction, the numerator of which is
13 the nonresident estate's or trust's Nebraska income as determined
14 by sections 77-2724 and 77-2725 and the denominator of which is
15 its total federal income after first adjusting each by the amounts
16 provided in section 77-2716. The federal credit for prior year
17 minimum tax, after the recomputations required by the Nebraska
18 Revenue Act of 1967, reduced by the percentage of the total income
19 which is attributable to income from sources outside this state,
20 and the credits provided in the Nebraska Advantage Microenterprise
21 Tax Credit Act~~7~~ and the Nebraska Advantage Research and Development
22 Act~~7~~ and section ~~77-27,222~~ shall be allowed as a reduction in the
23 income tax due. A refundable income tax credit shall be allowed
24 for all nonresident estates and trusts under the Nebraska Advantage
25 Microenterprise Tax Credit Act and the Nebraska Advantage Research

1 and Development Act.

2 (2) In all instances wherein a fiduciary income tax
3 return is required under the provisions of the Internal Revenue
4 Code, a Nebraska fiduciary return shall be filed, except that a
5 fiduciary return shall not be required to be filed regarding a
6 simple trust if all of the trust's beneficiaries are residents of
7 the State of Nebraska, all of the trust's income is derived from
8 sources in this state, and the trust has no federal tax liability.
9 The fiduciary shall be responsible for making the return for the
10 estate or trust for which he or she acts, whether the income be
11 taxable to the estate or trust or to the beneficiaries thereof.
12 The fiduciary shall include in the return a statement of each
13 beneficiary's distributive share of net income when such income is
14 taxable to such beneficiaries.

15 (3) The beneficiaries of such estate or trust who are
16 residents of this state shall include in their income their
17 proportionate share of such estate's or trust's federal income and
18 shall reduce their Nebraska tax liability by their proportionate
19 share of the credits as provided in the Nebraska Advantage
20 Microenterprise Tax Credit Act, and the Nebraska Advantage Research
21 and Development Act. , ~~and section 77-27,222.~~ There shall be
22 allowed to a beneficiary a refundable income tax credit under the
23 Beginning Farmer Tax Credit Act for all taxable years beginning or
24 deemed to begin on or after January 1, 2001, under the Internal
25 Revenue Code of 1986, as amended.

1 (4) If any beneficiary of such estate or trust is a
2 nonresident during any part of the estate's or trust's taxable
3 year, he or she shall file a Nebraska income tax return which shall
4 include (a) in Nebraska adjusted gross income that portion of the
5 estate's or trust's Nebraska income, as determined under sections
6 77-2724 and 77-2725, allocable to his or her interest in the estate
7 or trust and (b) a reduction of the Nebraska tax liability by
8 his or her proportionate share of the credits as provided in the
9 Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska
10 Advantage Research and Development Act, and ~~section 77-27,222~~ and
11 shall execute and forward to the fiduciary, on or before the
12 original due date of the Nebraska fiduciary return, an agreement
13 which states that he or she will file a Nebraska income tax return
14 and pay income tax on all income derived from or connected with
15 sources in this state, and such agreement shall be attached to the
16 Nebraska fiduciary return for such taxable year.

17 (5) In the absence of the nonresident beneficiary's
18 executed agreement being attached to the Nebraska fiduciary return,
19 the estate or trust shall remit a portion of such beneficiary's
20 income which was derived from or attributable to Nebraska sources
21 with its Nebraska return for the taxable year. The amount of
22 remittance, in such instance, shall be the highest individual
23 income tax rate determined under section 77-2715.02 multiplied by
24 the nonresident beneficiary's share of the estate or trust income
25 which was derived from or attributable to sources within this

1 state. The amount remitted shall be allowed as a credit against the
2 Nebraska income tax liability of the beneficiary.

3 (6) The Tax Commissioner may allow a nonresident
4 beneficiary to not file a Nebraska income tax return if the
5 nonresident beneficiary's only source of Nebraska income was his or
6 her share of the estate's or trust's income which was derived from
7 or attributable to sources within this state, the nonresident did
8 not file an agreement to file a Nebraska income tax return, and
9 the estate or trust has remitted the amount required by subsection
10 (5) of this section on behalf of such nonresident beneficiary. The
11 amount remitted shall be retained in satisfaction of the Nebraska
12 income tax liability of the nonresident beneficiary.

13 (7) For purposes of this section, unless the context
14 otherwise requires, simple trust shall mean any trust instrument
15 which (a) requires that all income shall be distributed currently
16 to the beneficiaries, (b) does not allow amounts to be paid,
17 permanently set aside, or used in the tax year for charitable
18 purposes, and (c) does not distribute amounts allocated in the
19 corpus of the trust. Any trust which does not qualify as a simple
20 trust shall be deemed a complex trust.

21 Sec. 23. Section 77-2734.03, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 77-2734.03 (1) (a) For taxable years commencing prior to
24 January 1, 1997, any (i) insurer paying a tax on premiums and
25 assessments pursuant to section 77-908 or 81-523, (ii) electric

1 cooperative organized under the Joint Public Power Authority Act,
2 or (iii) credit union shall be credited, in the computation of
3 the tax due under the Nebraska Revenue Act of 1967, with the
4 amount paid during the taxable year as taxes on such premiums and
5 assessments and taxes in lieu of intangible tax.

6 (b) For taxable years commencing on or after January 1,
7 1997, any insurer paying a tax on premiums and assessments pursuant
8 to section 77-908 or 81-523, any electric cooperative organized
9 under the Joint Public Power Authority Act, or any credit union
10 shall be credited, in the computation of the tax due under the
11 Nebraska Revenue Act of 1967, with the amount paid during the
12 taxable year as (i) taxes on such premiums and assessments included
13 as Nebraska premiums and assessments under section 77-2734.05 and
14 (ii) taxes in lieu of intangible tax.

15 (c) For taxable years commencing or deemed to commence
16 prior to, on, or after January 1, 1998, any insurer paying a tax on
17 premiums and assessments pursuant to section 77-908 or 81-523 shall
18 be credited, in the computation of the tax due under the Nebraska
19 Revenue Act of 1967, with the amount paid during the taxable year
20 as assessments allowed as an offset against premium and related
21 retaliatory tax liability pursuant to section 44-4233.

22 (2) There shall be allowed to corporate taxpayers a
23 tax credit for contributions to community betterment programs as
24 provided in the Community Development Assistance Act.

25 (3) There shall be allowed to corporate taxpayers a

1 refundable income tax credit under the Beginning Farmer Tax Credit
2 Act for all taxable years beginning or deemed to begin on or
3 after January 1, 2001, under the Internal Revenue Code of 1986, as
4 amended.

5 ~~(4) There shall be allowed to corporate taxpayers a tax~~
6 ~~credit as provided in section 77-27,222.~~

7 ~~(5) (4)~~ The changes made to this section by Laws 2004,
8 LB 983, apply to motor fuels purchased during any tax year ending
9 or deemed to end on or after January 1, 2005, under the Internal
10 Revenue Code of 1986, as amended.

11 ~~(6) (5)~~ There shall be allowed to corporate taxpayers
12 refundable income tax credits under the Nebraska Advantage
13 Microenterprise Tax Credit Act and the Nebraska Advantage Research
14 and Development Act.

15 Sec. 24. Section 77-27,235, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 77-27,235 (1) Any producer of electricity generated by
18 a new zero-emission facility shall earn a renewable energy tax
19 credit. For electricity generated on or after July 14, 2006, and
20 before ~~January 1, 2010,~~ October 1, 2007, the credit shall be
21 .075 cent for each kilowatt-hour of electricity generated by a
22 new zero-emission facility. For electricity generated on or after
23 October 1, 2007, and before January 1, 2010, the credit shall
24 be .1 cent for each kilowatt-hour of electricity generated by a
25 new zero-emission facility. For electricity generated on or after

1 January 1, 2010, and before January 1, 2013, the credit shall be
2 ~~-.05~~ .075 cent per kilowatt-hour for electricity generated by a
3 new zero-emission facility. For electricity generated on or after
4 January 1, 2013, and before January 1, 2018, the credit shall be
5 ~~-.025~~ .05 cent per kilowatt-hour for electricity generated by a new
6 zero-emission facility. The credit may be earned for production
7 of electricity for ten years after the date that the facility is
8 placed in operation on or after July 14, 2006.

9 (2) For purposes of this section:

10 (a) Electricity generated by a new zero-emission
11 facility means electricity that is exclusively produced by a new
12 zero-emission facility;

13 (b) Eligible renewable resources means wind, moving
14 water, solar, geothermal, fuel cell, methane gas, or photovoltaic
15 technology; and

16 (c) New zero-emission facility means an electrical
17 generating facility located in this state that is first placed into
18 service on or after July 14, 2006, ~~with a rated production of one~~
19 ~~megawatt or greater~~ which utilizes eligible renewable resources
20 as its fuel source and for which the operation of the facility
21 results in no pollution or emissions that are or may be harmful
22 to the environment as certified by the Department of Environmental
23 Quality.

24 (3) The credit allowed under this section may be used to
25 reduce the producer's Nebraska income tax liability or to obtain

1 a refund of state sales and use taxes paid by the producer of
2 electricity generated by a zero-emission facility. A claim to use
3 the credit for refund of the state sales and use taxes paid, either
4 directly or indirectly, by the producer may be filed quarterly for
5 electricity generated during the previous quarter by the twentieth
6 day of the month following the end of the calendar quarter. The
7 credit may be used to obtain a refund of state sales and use taxes
8 paid during the quarter immediately preceding the quarter in which
9 the claim for refund is made, except that the amount refunded under
10 this subsection shall not exceed the amount of the state sales and
11 use taxes paid during the quarter.

12 (4) The Department of Revenue may adopt and promulgate
13 rules and regulations to permit verification of the validity and
14 timeliness of any renewable energy tax credit claimed.

15 (5) The Environmental Quality Council may adopt and
16 promulgate rules and regulations to certify that the operation of
17 a new zero-emission facility results in no pollution or emissions
18 that are or may be harmful to the environment.

19 (6) The total amount of renewable energy tax credits
20 that may be used by all taxpayers shall be limited to ~~four~~ seven
21 hundred fifty thousand dollars without further authorization from
22 the Legislature.

23 (7) The credit allowed under this section may not be
24 claimed by a producer who received a sales tax exemption under
25 section 11 of this act for the new zero-emission facility.

1 Sec. 25. Section 77-3806, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-3806 (1) The tax return shall be filed and the total
4 amount of the franchise tax shall be due on the fifteenth day of
5 the third month after the end of the taxable year. No extension
6 of time to pay the tax shall be granted. If the Tax Commissioner
7 determines that the amount of tax can be computed from available
8 information filed by the financial institutions with either state
9 or federal regulatory agencies, the Tax Commissioner may, by
10 regulation, waive the requirement for the financial institutions to
11 file returns.

12 (2) Sections 77-2714 to 77-27,135 relating to
13 deficiencies, penalties, interest, the collection of delinquent
14 amounts, and appeal procedures for the tax imposed by section
15 77-2734.02 shall also apply to the tax imposed by section 77-3802.
16 If the filing of a return is waived by the Tax Commissioner, the
17 payment of the tax shall be considered the filing of a return for
18 purposes of sections 77-2714 to 77-27,135.

19 (3) No refund of the tax imposed by section 77-3802 shall
20 be allowed unless a claim for such refund is filed within ninety
21 days of the date on which (a) the tax is due or was paid, whichever
22 is later, or (b) a change is made to the amount of deposits or
23 the net financial income of the financial institution by a state or
24 federal regulatory agency.

25 (4) Any such financial institution shall receive a credit

1 on the franchise tax as provided under the Community Development
2 Assistance Act, ~~and section 77-27,222.~~

3 Sec. 26. Sections 5, 19, 20, 21, 22, 23, 25, 27, and 30
4 of this act become operative for taxable years beginning or deemed
5 to begin on or after January 1, 2007, under the Internal Revenue
6 Code of 1986, as amended. Sections 9, 10, 11, 12, 13, 14, 15, 16,
7 17, 18, 24, 29, and 31 of this act become operative on October 1,
8 2007. Sections 1, 2, 3, 4, 6, 7, 8, 26, 28, and 32 of this act
9 become operative on their effective date.

10 Sec. 27. Original section 77-3806, Reissue Revised
11 Statutes of Nebraska, and sections 77-908, 77-2715.02, 77-2715.07,
12 77-2716.01, 77-2717, and 77-2734.03, Revised Statutes Cumulative
13 Supplement, 2006, are repealed.

14 Sec. 28. Original section 77-2101.02, Reissue Revised
15 Statutes of Nebraska, and sections 77-2101.01 and 77-2101.03,
16 Revised Statutes Cumulative Supplement, 2006, are repealed.

17 Sec. 29. Original sections 77-2701, 77-2701.04,
18 77-2701.10, 77-2701.16, 77-2701.34, 77-2703, 77-2703.01,
19 77-2704.33, 77-2704.55, and 77-27,235, Revised Statutes Cumulative
20 Supplement, 2006, are repealed.

21 Sec. 30. The following section is outright repealed:
22 Section 77-27,222, Reissue Revised Statutes of Nebraska.

23 Sec. 31. The following sections are outright repealed:
24 Section 77-2709.01, Reissue Revised Statutes of Nebraska, and
25 section 77-2701.45, Revised Statutes Cumulative Supplement, 2006.

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1 Sec. 32. Since an emergency exists, this act takes effect
2 when passed and approved according to law.